IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37617 of 2007(C)

PETITIONER:

JUSTIN JACOB, KADAPLACKAL HOUSE
TEEKOY P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENT:

THE STATE BANK OF TRAVANCORE, ERATTPETTA
BRANCH, ERATTUPETTA P.O., KOTTAYAM DISTRICT
REPRESENTED BY ITS BRANCH MANAGER.

BY ADV.SHRI SATISH NINAN (SC, SBT)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 37617 OF 2007

Dated this the 18th day of December, 2007

J U D G M E N T

This writ petition is filed praying for a direction to set aside the order passed against the writ petitioner in E.P. 15/07 in O.S. 16/05. It is submitted that he is not having any means. But still, he is prepared to pay the amount at the rate of Rs.5,000/- per month. It is also submitted that he is to get married on 26.12.07 and therefore, some indulgence may be shown by this court.

2. Heard learned counsel for the decree holder as well. He has opposed the application stating that payment of amount at the rate of Rs.5,000/- per instalment is grossly inadequate. But, if the petitioner has got a desire to pay the amount, he must pay it as expeditiously as possible. It is true that he has not filed any counter. But still he has got a chance to raise it under Order XXI Rule 40 CPC. But as he wants to wipe off the liability, I feel some arrangement can be made whereby unnecessary hardship to him can be averted. Therefore, I dispose of the writ petition as follows:

(i) The writ petitioner is directed to make the payment of the decree amount in 10 monthly equal instalments commencing from 1.2.08.

(ii) If the petitioner commits default of the initial payment or thereafter commits default of two consecutive instalments, he will forfeit the benefit that is granted to him and the decree holder is entitled to request the court to arrest him in execution of the decree.

(iii) In the light of these facilities extended to him, the court below is directed not to arrest him till a breach is committed by him.

M.N.KRISHNAN, JUDGE

vps